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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/689,510	10/12/2000	Bayard S. Webb	0112300/140	9134

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EXAMINER

ASHBURN, STEVEN L

ART UNIT

PAPER NUMBER

3714

DATE MAILED: 07/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/689,510

Applicant(s)

WEBB ET AL.

Examiner

Steven Ashburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.

- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: *Examiner's Affidavit*.


MARK SAGER
PRIMARY EXAMINER

DETAILED ACTION***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Yoseloff*, U.S. Patent 6,312,334 (Nov. 6, 2001).

Yoseloff discloses a gaming system that entices players to risk an initial award in return for the opportunity to receive greater payoff in a second game segment in which players chooses from several masked awards. The reference suggests basing the game's theme on popular game shows such as LET'S MAKE A DEAL[®], THE PRICE IS RIGHT[®], WHEEL OF FORTUNE[®], JEOPARDY![®], HOLLYWOOD SQUARES[®], or any game having the visual appearance of a game shows with a host, audience, participants, etc. *See col. 7:63-9:8*. In one embodiment, *Yoseloff* describes the LET'S MAKE A DEAL[®] game wherein players risk a prize in return for a masked prize behind one of three doors, as in the live television game show. *See fig. 6, 7; col. 7:18-33*. Furthermore, *Yoseloff* suggests maintaining "thematic continuity" between the gaming device and the television game show upon which it is based. *See col. 7:48-63*. In specific regards to the claimed subject matter, *Yoseloff* describes the following features:

- a. An initial award value offered to a player. *See col. 8:46-57, 9:46-67. (Claims 1, 10)*
- b. A plurality of masked awards, one of the awards being an enticement award having a value greater than the value of the initial award, and one award being a consolation award having a value less than the value of the initial award. *See fig. 7; col. 7:19-35. (Claims 1, 10)*

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- c. Means for enabling the player to keep the initial award or to select another masked award. *See col. 6:35-44, 9:46-67. (Claims 1, 10)*
- d. Means for informing the player of the initial award. *See fig. 5. (Claims 2, 11)*
- e. A plurality of initial awards. *See fig. 1:26. (Claim 6)*
- f. A plurality of enticement awards. *See fig. 1:30. (Claim 7)*
- g. A plurality of consolation awards. *See fig. 7; col. 7:19-28. (Claim 8)*
- h. A display device connected to game controller wherein the display reveals a value of at least one award after the player selects an award. *See fig. 7; col. 7:19-63. (Claim 9)*

As listed above, *Yoseloff* discloses all the features of the claimed subject matter except the following:

- a. Means for disclosing information about the awards to the player including that one of the unmasked awards is an enticement award having a value greater than the value of the initial award. *(Claims 1, 10)*
- b. Means for informing the player of the value of the enticement award and consolation award before the player's selection. *(Claims 3-5, 12-14)*

Regardless of the deficiencies, these features were known in the art at the time of the invention and would have been obvious to an artisan.

Slot machines typically display information to players about awards to entice them to risk a present value for the chance of a larger payoff. For example, the primary game *Yoseloff* displays a payable listing the payout per coin wagered by the player. *See fig. 4, 5; col. 11:36-12:32.* Notably, *Yoseloff* suggests that displaying the payoff serves as an enticement to continue wagering. *See id.* Displaying payoff information allows players to calculate the difference between a present value and a potential payoff and thereby evaluate whether the chance of receiving the larger payout is worth risking the present value.

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Thus, it would have been obvious to an artisan at the time of the invention to modify the game system disclosed by *Yoseloff*, wherein players are enticed to wager their winnings for the opportunity to win a larger payoff, to provide means for informing players of the values of the potential payoffs to allow them to evaluate the wager's risk. As a result, the operator may increase revenues due the increased number of wagers placed by players who typically do not undertake risk without knowing the value of the associated payoff.

Claims 15-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Yoseloff*, U.S. Patent 6,312,334 (Nov. 6, 2001) in view of Schwartz, et al., *The Encyclopedia of TV Game Shows*, 3rd Ed., Checkmark Books (1999) (hereinafter "*Encyclopedia*")

The gaming system disclosed by *Yoseloff* suggests all the features of the claimed subject matter except the following:

- a. Revealing an award value having an intermediate value first if the player selects an award having a minimum value. (*Claim 15*)
- b. Revealing an award value having a maximum value last if the player selects an award having a minimum value. (*Claim 16*)
- c. Revealing an award value having a minimum value first if the player selects an award having an intermediate value. (*Claim 17*)
- d. Revealing an award value having a maximum value last if the player selects an award having an intermediate value. (*Claims 18, 20*)
- e. Revealing an award value having an intermediate value first if the player selects an award having a intermediate value. (*Claim 15*)
- f. Revealing an award value having a maximum value last if the player selects an award having a maximum value. (*Claims 21*)

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- g. Revealing an award value having a minimum value first if the player selects an award having a maximum value. *(Claim 22)*
- h. Revealing an award value having an intermediate first if the player selects an award having a maximum value. *(Claim 23)*
- i. Randomly determining whether to reveal the award having the minimum or intermediate value first if the player selects the award having the maximum value. *(Claim 24)*
- j. Randomly determining with equal probability to reveal the award having the minimum or intermediate value first if the player selects the award having the maximum value. *(Claim 25)*
- k. Revealing an award value having a maximum value last if the player selects a known award. *(Claim 26)*
- l. Revealing an award value having a minimum award first if the player selects a known award. *(Claim 27)*
- m. Revealing an award value having a intermediate award first if the player selects a known award. *(Claim 28)*
- n. Randomly determining whether to reveal the award having the minimum or intermediate value first if the player selects the known award. *(Claim 29)*
- o. Randomly determining with equal probability to reveal the award having the minimum or intermediate value first if the player selects the known. *(Claim 30)*
- p. Revealing all non-selected lower-value awards; revealing on high value award; revealing a selected lower value award; and revealing the other high value award. *(Claim 31)*
- q. Revealing all but one lower value award; revealing a non-selected higher value award; revealing a remaining lower value award; and revealing the selected high value award. *(Claim 32)*

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- r. Revealing the player-selected award after another award is revealed; and revealing the highest value award last. (*Claim 33*)

Regardless of the deficiencies, these features would have been obvious to an artisan in view of *Encyclopedia*.

Encyclopedia describes the popular television game show LET'S MAKE A DEAL® which aired on various broadcast networks between 1963 and 1991. The show's players earned awards and optionally swapped them for awards hidden behind doors, curtains or beneath boxes. *See p. 125*. The hidden prizes included awards ranging in value from high value items (e.g. cash or merchandise) to consolation prizes of little value. *See id.* Consolation prizes were frequently revealed by the show's announcer in an entertaining presentation. *See id.*

The following facts about the process of revealing awards on LET'S MAKE A DEAL are provided under Official Notice based on Examiner Corbett Coburn's personal knowledge as described in the attached affidavit. In LET'S MAKE A DEAL the emcee would sometimes reveal non-selected awards before or after revealing the player's selected award in order to satisfy the player's and audience's curiosity. Notably, displaying unselected awards also served to advertise products provided by the show's sponsors and demonstrates the value of the non-selected prizes. Hence, LET'S MAKE A DEAL suggests revealing unselected awards to players before and after revealing a selected award to enhance a game by piquing a player's interest by satisfying a player's curiosity of forgone opportunities, providing entertaining award display, advertising desirable merchandise and proving the value of unselected prizes.

The methods of revealing award values listed in (a) – (r) above are equivalent variations of the method described by LET'S MAKE A DEAL because the claimed steps employ equivalent means of revealing awards for the same purpose of enhancing a player's interest in a game.

Generally, incorporating television game show themes into standalone gaming devices is known in the art. First, it benefits players by allowing those who could/would not travel to participate or prefer

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not to compete against others to have convenient access to a similar game for a single person. Second, it benefits operators by allowing them to take advantage of the popularity and name recognition of games with features proven to be popular. Third, it benefits the show's owners by allowing them to collect licensing fees. Accordingly, *Yoseloff* suggests automating the features of television game shows to incorporate their themes into single-player gaming devices that are thematically consistent with the original show.

It is notoriously well known in the art of gaming devices to generate outcomes by either random or prescribed means. In adapting LET'S MAKE A DEAL into a gaming device, it would be obvious to an artisan to automate emcee's task of sometimes revealing unselected prizes by employing either a random or prescribed process in order to provide a gaming device that operates in a thematically consistent with the process employed on the game show.

In conclusion, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Yoseloff*, wherein a gaming device is based on the game show LET'S MAKE A DEAL, to incorporate the show's feature of sometimes revealing unselected awards to enhance the entertainment offered by the device by piquing a players interest by satisfying a player's curiosity of forgone opportunities, providing entertaining award display, advertising desirable merchandise and proving the value of unselected prizes.. The modification would attract and retain a greater number of players based on the game's connection to a widely recognized and popular game theme and thereby increase the operator's revenue.

Claims 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Yoseloff*, U.S. Patent 6,312,334 (Nov. 6, 2001) in view of Schwartz, et al., *The Encyclopedia of TV Game Shows*, 3rd Ed., Checkmark Books (1999) (hereinafter "*Encyclopedia*"), as described above, in further view of *Fey*, U.S. Patent 2,012,502 (Aug. 27, 1935).

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The combination of *Yoseloff* with *Encyclopedia* suggests all the features of the claimed subject matter except (a) a secondary display device connected to a controller including means for revealing at least one of the masked awards (*Claim 35*); and (b) revealing means is a mechanical door that opens to disclose a masked award (*Claims 36, 37*). Regardless of the deficiencies, the features were known in the art at the time of the invention and would have been obvious to an artisan in view of *Fey*.

Fey discloses an analogous coin operated game device wherein a mechanical door is opened to reveal prizes in response to a game outcome. Furthermore, it is notoriously well known in the art to incorporate secondary displays into gaming devices. Thus in view of *Fey*, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify *Yoseloff*, wherein animated doors are opened to reveal an award to add the feature of mechanical door. The modification would enhance the entertainment value of the gaming device by providing a retrospective manner of revealing awards that is thematically consistent of LET'S MAKE A DEAL wherein physical doors were raised to reveal prizes. As a result, operators would benefit from increased player usage and retention due to the connection to a widely recognized and popular game theme and thereby increase the operator's revenue

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Ashburn whose telephone number is 703 305 3543. The examiner can normally be reached on Monday thru Friday, 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 703 308 4119. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872 9302 for regular communications and 703 872 9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 1078.



Steven Ashburn
July 10, 2002



MARK COHEN
PRIMARY EXAMINER

Examiner's Affidavit

Come now the undersigned and makes this his Examiner's Affidavit and states as follows:

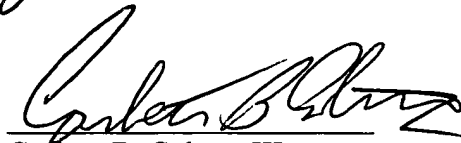
I am over eighteen years of age and am competent in all respects to enter the testimony contained herein. I make this affidavit freely and I have personal knowledge of all facts averred herein.

I watched "Let's Make A Deal" prior to the year 1999. During the game show, the host would sometimes reveal to the contestant what the contestant could have won had he chosen another box, door, or curtain. On other occasions, the host would ask other members of the studio audience if they would like to have the prize in one boxes, doors, or curtains not chosen by the contestant – sometimes doing so before the contestant's prize was revealed and sometimes after the contestant's prize was revealed. From time to time, after the contestant chose a prize, the host would reveal one of the other prizes and give the contestant the opportunity to trade the prize he already had for the remaining unrevealed prize – again, this offer was sometimes made before the prize the contestant initially chose was revealed and sometimes after the initially chosen prize was revealed.

I believe that the prize was revealed, at least in part to satisfy the curiosity of the contestant and the audience. If, for instance, the contestant chose door number two, and won a wrecked car, people wanted to know what the good prize actually was and where it was hidden. I believe another reason the prize was revealed was in order to advertise the merchandize that made up the prize.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

This 11th day of July, 2002



Corbett B. Coburn III
Patent Examiner